

BUREAU OF LAND MANAGEMENT

1799986

PUBLIC HEARING

Atqasuk, Alaska

In Re:

ANILCA 810 Analysis for the)
Amended IAP/EIS of the Northeast)
NPR-A)
_____)

TRANSCRIPT OF PROCEEDINGS

Atqasuk, Alaska
Atqasuk Community Center
November 4, 2004
7:15 p.m.

APPEARANCES:

STACY McINTOSH: Bureau of Land Management
Fairbanks, Alaska

DAVE YOKEL: Bureau of Land Management
Fairbanks, Alaska

STEVE ELLSWORTH,
Hearing Officer: ENSR International
Anchorage, Alaska

ALSO PRESENT:

KELLEY HARTLIEB,
Court Reporter: Metro Court Reporting
Anchorage, Alaska

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1 P R O C E E D I N G S

2 (On record)

3 MS. McINTOSH: Good evening. My name is Stacy
4 McIntosh and I work for the Bureau of Land Management, the
5 Fairbanks office. The reason why we're here today is the
6 ANILCA 810 Evaluation for the Northeast NPR-A.

7 First I'd like to introduce some of the other people
8 who are here with me. Dave Yokel, in the back, is a wildlife
9 biologist who also works for the Bureau of Land Management.
10 Steve Ellsworth works for ENSR, who is the contractor that is
11 preparing the Northeast Amendment. And this is Kelley
12 Hartlieb, who is a court reporter from Anchorage who will be
13 recording the testimony this evening.

14 The most -- are most people here familiar with the
15 Northeast 1998 Record of Decision for the NPR-A? Does that
16 sound familiar at all? We've come several times to various
17 communities. The first time we came, we came to do scoping
18 because it was decided that the 1998 Plan needed to be looked
19 at again. Five years had gone by and we were directed by the
20 President and our administration to take another look at the
21 northeastern area of the NPR-A to see whether or not there
22 were additional lands that could be opened up for oil and gas
23 leasing. And so we started the amendment process.

4 All right, so the reason why we're here tonight is to
25 specifically talk about the ANILCA 810 Analysis that had to be

1 performed in conjunction with the 1998 Amendment. So here's a
2 map of the entire NPR-A, and this portion that we're talking
3 about right now is the northeast portion with the box around
4 it. The NPR-A, it was decided to divide it up into three
5 different sections and have planning efforts in each of those
6 sections instead of doing one big plan for the entire reserve.
7 So in -- uh-huh?

5 UNIDENTIFIED SPEAKER: Can I interject? I
8 think you should show respect to the community. In this
9 community it's customary, we open meetings with a prayer.
10

6 MS. McINTOSH: Oh, okay.
11

7 UNIDENTIFIED SPEAKER: And so I'd like to ask
12 that we do that before we conduct the meeting.
13

8 MS. McINTOSH: That would be no problem.
14

9 MR. ELLSWORTH: Is there someone here that
15 would want to lead it?
16

10 UNIDENTIFIED SPEAKER: (Invocation in Inupiaq)
17

11 MS. McINTOSH: Thank you. So in 2003 the
18 amendment process for the Northeast 1998 Plan began. And at
19 that time we came to a lot of the communities for scoping
20 meetings in order to gather some information on the various
21 issues that existed out there. This is actually the third
22 time that we've come back to Atqasuk with regard to this
23 specific plan. So the first time was for scoping.
24

12 The second time was in August when there were some
25

1 public meetings that occurred when the Draft EIS came out.
2 And there are Draft EIS CD's in the back of the room -- and
3 that's probably where you got yours, Joseph -- for you to look
4 at. And the EIS is a very large document. It's two volumes,
5 a thousand pages. And looking at it on a CD on a computer is
6 a lot easier than having the whole volume there. So I
7 recommend getting one if you haven't seen it. It's packed
8 full of information.

13
9 Whenever we do a Plan or whenever we make a land use
10 decision on public lands in the Bureau of Land Management, we
11 have to do an ANILCA 810 Evaluation to make sure that -- well,
12 to be able to identify potential impacts to subsistence. And
13 what I'm going to do in the beginning right now is just go
14 through our Bureau of Land Management policy and process on
15 how we do ANILCA 810 Evaluations. Then I'll talk a little bit
16 about the findings within this 810 Evaluation. And finally,
17 the last part and the most important part, actually, of this
18 evening is we'll ask people to come up and give us comments,
19 to give us concerns, maybe to give us information that we
20 don't know about or that you think we should incorporate into
21 the plan that isn't identified and, most importantly, if there
22 are any mitigation measures that you think we need to take
23 back to our authorized officer, to the BLM staffers who are
24 actually making the decisions with regard to the document, on
25 ways that we can reduce impacts to subsistence. So one of the

1 most important things of this evenings is trying to get your
2 opinions with regard to mitigation measures that could be
3 incorporated in this to reduce impacts to subsistence.

14 Okay, Title VIII of ANILCA -- ANILCA is a law. And
5 Title VIII of ANILCA is the law, basically, that is all about
6 subsistence management and use on public lands in Alaska. The
7 first part of Title VIII of ANILCA Section 801 basically
8 states what the intent of the policy is. And that is that
9 it's to provide for the opportunity for continued subsistence
10 uses on the public lands by non-Native and Native rural
11 residents.

15 Then Section 202, the second part of Title VIII,
13 offers up the policy that's included within it. And the
14 policy of Congress is that the utilization of public lands in
15 Alaska is to cause the least adverse impact possible on rural
16 residents who depend on subsistence uses. And one of the most
17 important things that Title VIII of ANILCA does is it requires
18 there to be an evaluation of the proposed action. So if the
19 BLM proposes to do something, such as we are right now in
20 doing our Plan Amendment, or if the Parks Service proposes to
21 do something, or if the Forest Service proposes to do
22 something -- these are all federal public lands -- then under
23 ANILCA, they have to perform what is called an 810 Evaluation.

16 Our evaluation process at the BLM is set by a policy
25 that we have internally that follows very closely the law as

1 it's specified in Section 810 of ANILCA. The first step is to
2 evaluate the effect of the proposed action on subsistence uses
3 and needs. And it actually gives us criteria that we're
4 supposed to use in looking at these -- the effects that could
5 happen.

17 So you're suppose to look at the reduction in the
6 availability of subsistence resources caused by a decline in
7 the population. So if the proposed action has the potential
8 to severely, you know, destroy a population or a herd of
9 caribou -- we're talking about at the population level here --
10 whether or not that resource will be around.

18 The second one is reductions in the availability of
12 resources used for subsistence purposes caused by alteration
13 of their normal locations and distribution patterns. So this
14 is displacement. Would the proposed action cause a
15 significant displacement of resources so that it would be
16 harder to get to them?

19 And the third thing that you specifically look at is
18 limitations on access to subsistence resources, including from
19 increased competition for the resource. So this has to do
20 with whether or not the subsistence user is able to get out
21 and harvest the animals.

20 The first two have to do with the resource itself,
22 with the caribou or with the fish. And the third one has to
23 do with the user. Are there any impacts to the user being

1 able to access those resources?

21 Two other things need to be evaluated for each action,
3 and that is the availability of other lands for the purpose
4 sought to be achieved, and other alternatives which may exist
5 that could reduce or eliminate the need for the proposed
6 action.

22 So for land use planning, for example, the Northeast
8 Plan Amendment, there were three alternatives. For every
9 single one of those alternatives, I had to do these three
10 steps, these three evaluation steps within the process. And
11 every evaluation for each one of the alternatives has to
12 conclude with a distinct finding -- and this is written in our
13 policy -- that the proposed action would or would not
14 significantly restrict subsistence use. So this is the final
15 take-home conclusion; the proposed action would or it would
16 not significantly restrict subsistence use.

23 And in actuality, the first time that an ANILCA
18 Evaluation was done in the NPR-A, it ended up going to court.
19 Because during the process, the people of the North Slope
20 basically said, we don't understand what you mean by
21 significant, you didn't define it well enough; we don't
22 understand what you mean by, you know, whether or not an
23 activity would be significant or would be not significant.

24 So there was actually a court case in 1983, Kunaknana,
25 et al. vs. Watt. And this court case kind of is included into

25

1 our policy because it defined how we use may significantly
2 restrict or not significantly restrict subsistence uses. To
3 determine if a restriction is significant, the following
4 factors are considered: will the action substantially reduce
5 populations or their availability to subsistence users, or
6 will the action substantially limit access by subsistence
7 users to the resources? So we have the word substantially in
8 there.

26

9 If there -- if it has been found by the biologists or
10 the scientists who actually do the internal analysis for each
11 resource -- if they find that there would be a substantial
12 reduction in the numbers of animals or a substantial decrease
13 in the availability of hunters to get to the animals, then I
14 would make a positive finding. And to quote the decision:
15 significant restrictions are differentiated from insignificant
16 restrictions by a process assessing whether the action
17 undertaken will have no or a slight effect as opposed to a
18 large or substantial effect. So it's kind of like you have
19 two ends of the spectrum but there's really nothing in the
20 middle. But this is our policy and this is what we have to go
21 on.

27

22 Okay, if there's a positive finding for any one of the
23 alternatives, then we move to the next step in the process.
24 And that step is to hold a hearing in all of the potentially
25 affected communities. So that's what we're here doing now.

28

1 There was a positive finding for the Northeast
2 Amendment, for the cumulative case, not necessarily for each
3 of the three alternatives. And I will go through those
4 alternatives in a second. But there was for the cumulative
5 case. Because in a NEPA document, not only do you have to
6 analyze the proposed action, but you also have to analyze the
7 impacts cumulatively of all things that are going on in the
8 area. So there was a Cumulative Effects Analysis and there
9 was a positive finding that that would significantly restrict
10 subsistence uses for the communities of Anaktuvuk Pass,
11 Atqasuk, Barrow and Nuiqsut. So we are holding ANILCA
12 hearings in all four of those communities. The hearings that
13 we hold are for the purpose of getting information from the
14 communities, receiving comments or any new information, and
15 also for getting recommendations on potential mitigation
16 measures that we can use to help minimize negative effects to
17 subsistence.

29

18 All right, so now what's going to happen after we have
19 these hearings? Once we have the hearings, the authorized
20 officer could decide, you know what, it's just not worth it,
21 let's not go ahead with the proposed action, we'll just stop
22 the process here. That, most likely, will not happen in this
23 case.

30

24 Or the authorized officer can say, you know what,
25 we're going to continue on with the proposed action, we'll

1 take all of these things that we heard into consideration.
2 And then ANILCA requires that a final three determinations be
3 made. The final determinations are that having the identified
4 restriction to subsistence is necessary and consistent with
5 sound management principles for the utilization of public
6 lands.

31 In the NPR-A, we're actually -- it has its very own
8 law that formed it and that law basically says that the
9 Petroleum Reserve is for the purpose of, you know, exploration
10 and development of oil and gas resources. So a lot of times,
11 consistent with sound management principles has to do with
12 sound management of the Petroleum Reserve, not necessarily
13 having to do with all of the utilization of public lands that
14 occurs in other places, like recreation and those things. We
15 have to take them into consideration, but because the
16 Petroleum Reserve is a petroleum reserve, having oil and gas
17 leasing and exploration and development on it is considered a
18 sound management use of those lands.

32 The second determination is that the proposed activity
20 will involve the minimal amount of lands necessary to
21 accomplish that use. And the third one is that reasonable
22 steps will be taken to minimize adverse impacts upon
23 subsistence uses and resources resulting from the proposed
24 action. And this is where the mitigation measures come into
25 play. Because we need to make -- we need to ensure that we

1 are taking reasonable steps to minimize impacts to
2 subsistence.

33 3 After compliance with the above three determinations,
4 then, the authorized officer can go forward with their
5 proposed action. So ANILCA can't necessarily shut down a
6 project but it can help to minimize impacts to subsistence of
7 the project in the fact that we can incorporate these
8 mitigation measures. And we need to show that we have taken
9 reasonable steps to do so.

34 10 All right, are there any questions on that before we
11 move on to the three alternatives?

35 12 MR. REXFORD: The -- can you go back to
13 Kunaknana vs. Watt?

36 14 MS. McINTOSH: Yeah.

37 15 MR. REXFORD: Can you have someone translate
16 that into Inupiaq? Significant -- it's real hard for me to
17 read the fine print.

38 18 MS. McINTOSH: Right. Right. The significant
19 restrictions are differentiated from insignificant ones; is
20 that what you're talking about? At the very bottom?

39 21 MR. REXFORD: Down at the very bottom.

40 22 MS. McINTOSH: By a process -- yeah, it's
23 written in legal language too so it already sounds kind of
24 silly. But it says: significant restrictions are
25 differentiated from insignificant restrictions by a process

1 assessing whether the action undertaken will have no or a
2 slight effect versus a large or substantial effect. Can you
3 translate that, Arnold? I know it's hard with all those legal
4 words too.

41

5 MR. ARNOLD BROWER, JR.: (Translates into
6 Inupiaq)

42

7 I just maybe elaborated more beyond what I should say
8 but because it's only to your advantage and it has no
9 advantage to the user here. You apply what's significant but
10 we don't have a say-so on the significance because your AO is
11 your dealer and it doesn't matter what this thing is -- how
12 this affects the user. That's the.....

43

13 MS. MCINTOSH: Well, the authorized officer
14 does have the final decision to go forward with things,
15 that's definitely true. The authorized officer ends up being
16 the final decision maker on whether or not to move forward.
17 However, like I was saying before with those final three
18 determinations, in making those determinations we do need to
19 show that we have taken reasonable steps to minimize as much
20 as possible the impacts that have been identified to
21 subsistence. So in that way, identifying them to begin with
22 is a good thing.

44

23 And then getting mitigation measures, especially from
24 community meetings because they end up being part of the
25 administrative record, is a good thing too. Because then we

1 have a record that people have said to us, look, these are
2 some potential mitigation measures that we think you should
3 incorporate, why didn't you do it, or whatever. You know what
4 I'm saying? So I understand exactly what you're saying with
5 regard to the authorized officer because they do have the
6 final decision to go forward with the plan. And these are
7 just steps that have to be preformed for the plan to go
8 through.

45 9 MR. ARNOLD BROWER, JR.: I need to explain the
10 law about the NPR-A already mentioned. That's your premises
11 on your (indiscernible -- away from microphone).

12 (Translates into Inupiaq).

46 13 MS. McINTOSH: Quyanag, Arnold.

47 14 Okay, so here are the three alternatives that were --
15 that are the potential actions within the 1998 -- or within
16 the Northeast NPR-A Plan Amendment. The first one is the No
17 Action Alternative. And the No Action Alternative is
18 basically the former Preferred Alternative from the 1998 Plan.
19 This is the way the NPR-A, the northeast portion of the NPR-A,
20 is managed today.

48 21 And two of the main points of this -- and I'll talk
22 about these because these are potentially the most impactful
23 (sic) to subsistence -- are the fact that right now as it
24 stands, this green area north of Teshekpuk Lake is not
25 available for oil and gas leasing. Additionally, this dashed

1 area to the south and west of Teshekpuk Lake is a No Surface
2 Occupancy area which means that we can sell leases there but
3 no one can do any seismic exploration there, no one can do any
4 exploratory drilling there. There's no surface occupancy.

49 UNIDENTIFIED SPEAKER: Stacy, when you're --
5 try to define your area because we're looking at it from a
6 distance and it's not really clear to us. It's all the same
7 color when you're looking at it from here, when you're looking
8 at the vast portion. Maybe you could point the arrow to the
9 area that we're looking at.
10

50 MS. McINTOSH: Right. I hate these things.
11

51 MR. ARNOLD BROWER, JR.: Stacy, I think it
12 would behoove you to retain somebody for translation from the
13 village if they want to, to have a volunteer. Because there
14 are very many elders here that need to understand what you're
15 telling them.
16

52 MS. McINTOSH: Okay. Would anyone like to
17 translate what I'm saying?
18

53 MS. CANDACE ITTA: (Speaks in Inupiaq)
19

54 MR. ARNOLD BROWER, JR.: I think Candace is
20 volunteering. (Laughter)
21

55 MS. McINTOSH: So when I was talking about the
22 No Surface Occupancy area, it's this band right here, south,
23 west and east of Teshekpuk Lake, which is right here. And
24 that area can actually be leased but they're not allowed to do
25

1 exploration, exploratory drilling, seismic exploration or, you
2 know, anything that has to do with development in this area
3 according to the 1998 Plan.

56

4 MR. AKPIK: I've got a question, Stacy.

57

5 MS. McINTOSH: Uh-huh?

58

6 MR. AKPIK: What would be the intent if you
7 aren't -- if you can't explore, what's the intent of leasing
8 that subsurface? This is my question there.

59

9 MS. McINTOSH: That's a good question and
10 maybe Dave can respond to it. But Dave, could you come up
11 here so you can be heard in the recorder?

60

12 UNIDENTIFIED SPEAKER: (Speaks in Inupiaq)

61

13 MR. YOKEL: Well, in 1997 and 1998 when this
14 plan was being developed, the decision makers, which were
15 primarily in Washington, D.C. at the time, decided that
16 because of the multi-use and caribou resources in this area,
17 they did not want to open it for oil and gas leasing. And
18 that's this area right in here, solid green. But they did
19 want to open for oil and gas leasing the area that's in white.
20 Now, if they opened for leasing between Leasing and No
21 Leasing and just had a straight line, then you could lease
22 here, or let's say here, and drill here. And you'd get oil
23 out from underneath the ground just north of there too because
24 the oil is coming from an area around you. So this way
25 they've put a buffer here about six miles wide on average that

1 could be leased. So they're selling the rights to the oil and
2 gas there but it's protecting the resource. That way they
3 can't get any oil out from under the ground that they aren't
4 paying for the rights for. Does that make any sense, Joe?

5 MR. AKPIK: That don't make no sense to me.

6 MR. YOKEL: Okay, well, when you drill a hole
7 in the ground and put a well down.....

8 MR. AKPIK: I understand the directional
9 drilling. I can understand that.

10 MR. YOKEL: Well, see, when there's pressure
11 under the earth, that's pushing that oil into the well bore.
12 And that pressure is coming from some radius around the well.
13 And if they put the well right on the boundary of their lease,
14 they'd get some oil from their lease and some oil from outside
15 of their lease.

16 UNIDENTIFIED SPEAKER: In essence, they're
17 stealing oil.

18 MR. YOKEL: Well.....

19 UNIDENTIFIED SPEAKER: If they don't lease
20 that tract, they're stealing oil.

21 MR. YOKEL: Actually, I think we have laws to
22 then say, okay, we're going to have to lease you this area too
23 because you're getting our oil out from under it. And so this
24 allows them to lease the area, all of the area that they can
25 get oil from, because they could buy a lease in here, They

1 couldn't drill a well in here. If they could drill a well in
2 here, then they could get oil from even further north where we
3 don't want to sell leases. So it's just a way of making sure
4 that the resources were protected that the administration at
5 that time wanted to protect. And yet all of the oil that
6 they're getting would be properly paid for.

70

7 MR. AKPIK: I want to know about how many
8 miles radius, when they drill downward. And I want to know
9 the miles radius they can go. That's what I want to know too.

71

10 MR. YOKEL: In terms of.....

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11 MR. AKPIK: They can damage some fishes around
12 there. This one time they was drilling by that first
13 development. These surveyors, they kill so many fishes.

73

14 MR. YOKEL: I think.....

74

15 MR. AKPIK: I guess they're going to go let
16 the fish die for so many years. We can't recover on that.
17 It's up there by the Teshekpuk area. About five miles radius
18 will kill all the fishes we got over here at one time.

75

19 MR. YOKEL: Is that drilling for oil or was
20 that drilling to place dynamite in the ground for seismic
21 exploration?

76

22 MR. AKPIK: (Indiscernible -- simultaneous
23 speaking) It might be the strongest one. When you're
24 drilling five miles south from Teshekpuk area, they're going
25 to kill a lot of fish in there.

77

78 1 MR. YOKEL: Well, I don't quite understand how
2 just drilling a hole in the ground would kill the fish. In
3 the past -- and this is not done anymore -- but in the past
4 during seismic exploration, small holes were drilled in the
5 ground and dynamite was placed.

79 6 MR. AKPIK: Yeah, that's the one. They killed
7 a lot of fish.

80 8 MR. YOKEL: And if that happened close enough
9 to the lakes, it could cause death of the fish. But that is a
10 practice that is not done anymore and that's not the kind of
11 drilling that we're talking about here. We're actually
12 talking about drilling oil wells here, not shallow wells to
13 place dynamite charges in the ground.

81 14 MR. AKPIK: (Speaks in Inupiaq)

82 15 MR. YOKEL: So this six-mile wide buffer,
16 then, was just -- the idea was to have a conservative width,
17 that they could not stay outside of that and get oil from
18 clear beyond it into the unleased areas. That's the whole
19 purpose for it.

83 20 MR. ARNOLD BROWER, JR.: (Translates into
21 Inupiaq)

84 22 UNIDENTIFIED SPEAKER: The reason why I raised
23 that question was the deepest -- and I worked for a drilling
24 outfit -- the deepest we'd drill -- we did was 17,500. That's
25 pretty near three miles. And we had a hard time doing the

85

1 directional drilling with that. And silt and sand and shale
2 all -- whatever formation there was. But it's a very, very
3 hard task when you're doing the drilling. That's why I raised
4 that question: why do they want to lease from way out in that
5 area? So thank you.

86

6 MR. YOKEL: Well, what I'm saying is six miles
7 is beyond the range of current technology for getting oil from
8 one point on the surface. Current technology can't get oil
9 from underground six miles away from the surface hole. And
10 the idea here was to make sure that they could not get oil
11 from beyond that distance, so that whatever oil they did get
12 they'd be paying for.

87

13 MR. AKPIK: Pretty big -- pretty big bunch.

88

14 MR. YOKEL: Well, they don't -- that doesn't
15 mean the lease tract itself is six-mile wide. That was not
16 the case. The lease tracts in that sale were either half of a
17 township, three miles by six miles, or a quarter of a
18 township, three miles by three miles.

89

19 MR. AKPIK: A township is six miles by six
20 miles.

90

21 MR. YOKEL: Right. Depending on whether it
22 was considered a high oil potential or a low oil potential, it
23 was smaller or larger lease tracts. But not an entire
24 township in one lease tract.

91

25 MR. AKPIK: Thank you, Dave.

92

1 MS. McINTOSH: So this is the No Action
2 Alternative, one of the alternatives analyzed within the
3 Northeast Plan Amendment. The two alternatives which were
4 also analyzed are Alternative B and Alternative C. And in
5 these two alternatives that No Surface Occupancy area is gone.
6 And here, all of the Northeast would be available for oil and
7 gas leasing except for this small area northeast of Teshekpuk
8 Lake, and that's Alternative B.

93

9 Alternative C opens up the entire NPR-A, or the entire
10 northeast portion of the NPR-A, to oil and gas leasing. Now,
11 this isn't to say that there aren't still protections in place
12 because all of the Deep Water Lakes are protected and there's
13 a buffer zone still around Fish and Judy Creek. And over here
14 there's raptor stipulations. There are still stipulations,
15 lease stipulations, and Required Operating Procedures that
16 apply to these.

94

17 But with regard to subsistence, I thought the two most
18 important differences from the No Action Alternative to these
19 two alternatives was the removal of that No Surface Occupancy
20 zone and basically opening up all of this area with Teshekpuk
21 Lake and north of Teshekpuk Lake to oil and gas leasing except
22 for this area and this one, and no leasing in Alternative C.

95

23 MR. ARNOLD BROWER, JR.: (Translates into
24 Inupiaq)

96

25 UNIDENTIFIED SPEAKER: I have one question.

97 1 MS. McINTOSH: Uh-huh?

98 2 UNIDENTIFIED SPEAKER: In B, there's only --

3 it looks like kind of a light gray area.

99 4 MS. McINTOSH: Here?

100 5 UNIDENTIFIED SPEAKER: Yeah.

101 6 MS. McINTOSH: Yeah.

102 7 UNIDENTIFIED SPEAKER: That's not available

8 for leasing?

103 9 MS. McINTOSH: No.

104 10 UNIDENTIFIED SPEAKER: No. What's available

11 is what's within the grids, right?

105 12 MS. McINTOSH: It's everything else.

106 13 UNIDENTIFIED SPEAKER: What about Teshekpuk

14 Lake?

107 15 MS. McINTOSH: Teshekpuk Lake is.

108 16 UNIDENTIFIED SPEAKER: Included?

109 17 MS. McINTOSH: Yes.

110 18 MR. ARNOLD BROWER, JR.: (Translates into

19 Inupiaq).

111 20 MS. McINTOSH: In the Draft Plan, Alternative

21 B was the Preferred Alternative. This was the -- when you

22 identify a Preferred Alternative, you're basically stating --

23 the BLM was stating, this is the alternative that we would

24 like to put forward as the one that we would like to go with.

25 Right? So we identified to the public the direction in which

1 we were thinking of going.

2 However, the Final Preferred Alternative will not end
3 up looking like either of these two alternatives because we're
4 taking all of the comments that we receive from various
5 meetings, the Draft meetings that were held in August, this
6 ANILCA hearing and the ANILCA hearings in all of the
7 communities, and the things that we hear will be used in
8 crafting the Final Preferred Alternative as well as the final
9 mitigation measures that will go in the Record of Decision.

10 If you look within the document that was provided on
11 page B-8, this is basically a bulleted list of the primary
12 differences between the No Action Alternative and Alternatives
13 B and C. These are basically the main differences.

14 In writing the findings for each of the alternatives
15 within the ANILCA 810 Analysis, all of the science that was
16 used is basically the analysis that was in the main body of
17 the document. And those analyses were done by biologists,
18 wildlife biologists who were looking at large mammals,
19 fisheries biologists who were looking at the fisheries. And
20 they were looking at each one of these alternatives and how
21 these alternatives could impact their specific resource.

22 Those recommendations or conclusions that they had
23 with regard to whether or not the resource would be impacted
24 were what I used to come up with the may significantly or
25 would not significantly -- would significantly or would not

1 significantly restrict subsistence use findings within the
2 ANILCA 810. And, in actuality, when you look through the
3 conclusions of all of the biologists for the various
4 resources, for caribou, for fish, for marine mammals, for
5 migratory waterfowl, for all of the alternatives, they
6 basically came to the conclusion that these resources would
7 not be impacted at a population level and that displacement of
8 these resources would be localized and temporary. And when
9 you look at the Subsistence Analysis within the main body of
10 the document, which was done by Steven Braund and Associates,
11 it basically said that access to subsistence would not
12 necessarily be compromised by these alternatives.

116

13 Now, keep in mind, though, that these alternatives are
14 very broad and they're very vague. We don't know exactly
15 what's going to happen with regard to these alternatives. We
16 don't know where the oil companies are going to want to lease,
17 where they're going to want to explore. So all of the
18 conclusions are kind of vague in that way too. If there was
19 to be a development, much like the Alpine Satellite
20 development, we would have to go through this whole process
21 again and do another ANILCA 810 Analysis on that specific
22 action.

117

23 MR. REXFORD: If I could just offer an
24 observation? In your Alternative B and Alternative C, the
25 impacts on Nuiqsut are stated as -- that the residents of

1 Nuiqsut are uncomfortable in hunting where there's oil and gas
2 development. That's not true. Oil and gas development
3 infringed on their traditional and customary hunting grounds.

118 4 MS. McINTOSH: Right.

119 5 MR. REXFORD: So your statements in this
6 document need to be corrected. That's very misconstrued and
7 misleading because the people of Nuiqsut lost their hunting
8 grounds because you've got rules and regulations that do not
9 allow firearms.

120 10 MS. McINTOSH: Right.

121 11 MR. REXFORD: One incident in particular:
12 when they took the firearms away from the whaling captains
13 most recently because of 9/11.....

122 14 MS. McINTOSH: Uh-huh (affirmative).

123 15 MR. REXFORD:leaving them no means of
16 protecting themselves from polar bears if they should
17 encounter them.

124 18 MS. McINTOSH: Uh-huh (affirmative).

125 19 MR. REXFORD: And so those statements in
20 Alternative B and C in your document need to be corrected.

126 21 MS. McINTOSH: Okay. And I think that it
22 might very well be that when Steven Braund, who actually -- he
23 went out especially to Nuiqsut and conducted several
24 interviews in 2003 with people. It may very well be that he
25 phrased it like that so that the people at BLM would

1 understand what he was saying. You know what I mean? Because
2 some of the people at BLM may not necessarily believe
3 that.....

127 4 MR. REXFORD: Right. But your policy.....

128 5 MS. McINTOSH: I understand what you're
6 saying.

129 7 MR. REXFORD: But the policy makers in
8 Washington, D.C. that are reading your reports and your
9 findings and your conclusions are being misled to believe that
10 it's a choice of the people of Nuiqsut which it is not.

130 11 MS. McINTOSH: Okay. I'll make those
12 recommendations to Steven. Thank you.

131 13 And so basically, my presentation here is done unless
14 there are any questions that people have with regard to
15 anything else that we've talked about or the findings or
16 anything like that. And if there aren't any further
17 questions, I would like to open it up for potential mitigation
18 measures, comments, concerns, information from the people of
19 Atqasuk with regard to this plan.

132 20 MR. ARNOLD BROWER, JR.: Let me finish
21 translating the last part.

133 22 MS. McINTOSH: Okay.

134 23 MR. ARNOLD BROWER, JR.: (Translates into
24 Inupiaq) Okay, Stacy.

135 25 MS. McINTOSH: Are there any questions? And

1 I've been asked, actually, if you have a question, if you
2 could come up and speak into the microphone because they're
3 not getting recorded. So.....

136 4 MR. ARNOLD BROWER, JR.: (Translates into
5 Inupiaq)

137 6 UNIDENTIFIED SPEAKER: I've got one question.
7 You've got kind of a red border.

138 8 MS. McINTOSH: This, right here?

139 9 UNIDENTIFIED SPEAKER: Right. No, no, no, no.
10 Yeah, up like that.

140 11 MS. McINTOSH: This, right here?

141 12 UNIDENTIFIED SPEAKER: What is that?

142 13 MS. McINTOSH: That is the outline for the
14 Teshekpuk Lake Special Area which was designated as such back
15 in the 80's, is that correct?

143 16 MR. YOKEL: 1977.

144 17 MS. McINTOSH: In 1977. So it was designated
18 as an area that had resources or special resources that the
19 Secretary of the Interior at that time felt needed to be
20 protected. Right?

145 21 UNIDENTIFIED SPEAKER: Near the Pik Dunes.

146 22 MS. McINTOSH: Yeah, there's the Pik Dunes
23 right there. Is that correct, Dave?

147 24 MR. YOKEL: Well, yeah, the primary resource
25 that was of concern at the time was the.....

148

1 MS. McINTOSH: I'm sorry, she can't hear.

149

2 COURT REPORTER: Thank you.

150

3 MR. YOKEL: Remember, we're not on record
4 here, it's just the process point. We have not opened the
5 public hearing yet. So like Delbert had a comment and if you
6 really -- I mean, he made it to the right person; Stacy is the
7 person to hear that particular comment. But if you want a
8 comment to be part of the official record of this hearing, we
9 haven't opened the hearing yet.

151

10 MS. McINTOSH: Right.

152

11 MR. YOKEL: This is just an informational
12 session.

153

13 UNIDENTIFIED SPEAKER: Right. That's why I'm
14 asking about that particular outline.

154

15 MR. YOKEL: Yeah, well, she was saying if you
16 want to be recorded. We are being recorded but it's not, as
17 far as I understand, part of the official public hearing yet.

155

18 But anyway, when the Naval Petroleum Reserve and
19 Production Act was passed by Congress in 1976, it stated that
20 there were some parts of the NPR-A that Congress thought
21 should be given maximum protection during the exploration for
22 oil and gas. And Congress authorized the secretary of
23 interior to designate such Special Areas and started the
24 secretary off by saying there's two that you need to designate
25 and those are the Teshekpuk Lake area and the Unigok (ph)

1 Uplands. And the key resource in Teshekpuk Lake was the geese
2 that were known to molt come from as far away as Siberia and
3 Canada and the Y-K Delta, and come to molt in that area north
4 of Teshekpuk Lake.

156

5 Now, the boundary for that area was probably drawn up
6 by the US Fish and Wildlife Service back then. And I think it
7 was intended to encompass the entire watershed of the
8 Teshekpuk Lake. It's very hard to define precise watershed in
9 such a flat area but I think that's how the boundary was
10 originally set. Then in 1998, we added that little bit to
11 include Pik Dunes as a result of our first Land Use Plan for
12 the Northeast NPR-A.

157

13 UNIDENTIFIED SPEAKER: I have another
14 question. Has that been repealed as the Teshekpuk area for --
15 that needs protection.

158

16 MR. YOKEL: No. No, it hasn't been repealed.
17 It's still designated as a Special Area under the Naval
18 Petroleum Reserve Production Act, 1976.

159

19 MS. McINTOSH: However, the protections that
20 exist in that Special Area are under the discretion of the
21 Secretary of the Interior.

160

22 MR. YOKEL: And so the secretary used this
23 discretion in 1998 to add this little piece to the Teshekpuk
24 Lake Special Area and also these two pieces to the Colville
25 River Special Area. And then in -- I forget when our

161 1 northwest plans were completed. Either in late 2003 or early
2 2004, Secretary Norton designated a new Special Area up there
3 in Western NPR-A, Kaseguluk Lagoon.

162 4 MS. McINTOSH: But these Special Areas don't
5 necessarily have anything sp- -- any type of specific
6 protection attached to it, correct? Like a stipulation or a
7 Required Operating Procedure?

163 8 MR. YOKEL: Only what we attached to them in
9 the Land Use Plan.

164 10 MS. McINTOSH: Right.

165 11 MR. YOKEL: What the law said was that they
12 would be given the maximum protection to the extent that the
13 law -- to the extent that still allowed for oil exploration in
14 the NPR-A. When the law was passed, oil development was not
15 allowed, only oil exploration.

168 16 MR. ARNOLD BROWER, JR.: To the extent that
17 there is no oil; that's what you're trying to say?

169 18 MR. YOKEL: No. Well, I didn't do a very good
19 job of saying what I was trying to say but that wasn't it,
20 Arnold.

170 21 MR. ARNOLD BROWER, JR.: I know exactly what
22 you're trying to say, between that.....

171 23 MS. McINTOSH: I brought a copy of that law,
24 too, so the Naval Petroleum Reserve Production Act.

172 25 MR. ARNOLD BROWER, JR.: Yeah, the concern,

1 Stacy, I have is the Interior has designated these two rivers,
2 the falcon area, protection and that's quite honorable. But
3 we don't rely on falcon. Is there an endangered specification
4 for falcon versus black brants and geese?

173

5 MR. YOKEL: The Arctic peregrine falcon.....

174

6 MR. ARNOLD BROWER, JR.: You know,
7 scientifically, biologically, where's your rationale?

175

8 MR. YOKEL: Scientifically -- there's not a
9 scientific rationale for it. It was more of a legal rationale
10 under the Endangered Species Act. The Arctic peregrine falcon
11 was listed under the Endangered Species Act in 1973, about as
12 soon as the law was passed. And it was down-listed some time
13 later from endangered to threatened, and then de-listed from
14 protection under the law completely in 1994. Now, there was a
15 Special Area designated primarily for the nesting raptors
16 along the Colville River because that was another resource
17 that was of global significance. There's a higher diversity
18 and abundance of cliff nesting raptors along the Colville
19 River than in most anywhere else in the circumpolar arctic.

176

20 Significant -- similarly, the area above Teshekpuk
21 Lake was unique in that geese from all over the -- or from
22 half, at least, of the circumpolar Arctic came there to molt.
23 So there's no difference in that way between the geese and the
24 falcon. They were both given special protection as a result
25 of that '76 law.

177

1 MR. ARNOLD BROWER, JR.: That is a Preferred
2 Alternative. You still retain the protected rights of the
3 falcon and none for the black brants or other geese in
4 Alternative B.

178

5 MR. YOKEL: Well, there -- it's difficult to
6 see in these maps, but there are -- what this is -- it says
7 there will be -- we could sell oil and gas leases here but
8 there would be no permanent surface occupancy in these
9 corridors on either side of the rivers. Same thing up here in
10 the lakes; we could sell oil and gas leases here but under
11 this alternative there would be buffers around the lakes where
12 no permanent surface facilities would be allowed. Now, you
13 could argue about whether or not that's adequate protection
14 for those molting geese.

179

15 MR. ARNOLD BROWER, JR.: I'm not going to
16 argue about that.

180

17 MR. YOKEL: But there -- it's the same thought
18 for both the geese and the falcons.

181

19 MR. ARNOLD BROWER, JR.: One more question.
20 On the Preferred Alternative listed there, you know, does it
21 explain in the first alternative -- on the No Action there was
22 a buffer where you could go directional drilling but there is
23 no similar line under the goose molting area. So this is a
24 strictly prohibited area?

182

25 MR. YOKEL: Well, I don't -- I would agree

183

1 with you that it seems to be a contradiction between the
2 thoughts in 1998 and the thoughts today that led to this. I
3 am under the impression -- I don't know all the laws, but I'm
4 under the impression that if we allow drilling right here on
5 the edge of this No Lease area, and if they do what we -- the
6 term is drain -- drain oil resources from underneath this area
7 that's not available for the leases, then the laws still allow
8 us to lease it to them in a way that the federal government
9 gets paid for that oil. It will work either way; the 1998 way
10 or the 2004 way. Different administrations in 1998 versus
11 2004, two different philosophies of how to make it work.

184

12 MR. ARNOLD BROWER, JR.: I got a question now
13 for Stacy. I guess all the stipulations, 74 stipulations, are
14 going to be applied to these, both these?

185

15 MS. McINTOSH: Yes. These two alternatives
16 don't -- the Preferred Alternative or the No Action
17 Alternative has the original 79 stipulations from the 1998
18 Plan. These two alternatives still have stipulations but they
19 also have Required Operating Procedures. And attached to both
20 of these two alternatives is the concept of taking the 79
21 stipulations and making them look more like the stipulations
22 and Required Operating Procedures of the Northwest Plan, that
23 is, these adaptive management stipulations.

186

24 And I know Bob has kind of described them for -- and
25 he always uses the example of pipeline height. For example,

1 in the 1998 Plan, one of the stipulations said pipelines will
2 be five feet above the ground surface. In the new format for
3 the stipulations, which the protection is still there, it's
4 just they're formatted differently, supposedly, in that in the
5 beginning is stated the objective.

187

6 The objective is to allow for the free movement of
7 caribou. Given that objective, you need to do things to allow
8 for that, for the objective to take place. And I think, in
9 fact, with the new stipulations, the pipeline height has been
10 increased to seven feet. But there may be places where the
11 pipeline has to be buried or things like that. And there's
12 kind of an adapted management in that instead of -- the oil
13 companies go, well, the stipulation says it only has to be
14 five feet, we're going to put them five feet everywhere.
15 Instead, now there's more room to be like, no, in this place
16 it needs to be buried or it needs to go around or it needs to
17 do this or you can't put a pipeline through here. And it's
18 not as site specific as the former 79 stipulations. But
19 stipulations still do exist with these two.

188

20 MR. ARNOLD BROWER, JR.: (Translates into
21 Inupiaq)

189

22 MS. MCINTOSH: Yes, Joseph?

190

23 MR. AKPIK: Thank you. Can you interpret the
24 Environmental Justice? I do believe I have mentioned this
25 Executive Order 128.98 time and time again. But can you give

1 us an interpretation and then we could understand what this
2 is?

191 3 MS. McINTOSH: What Environmental
4 Justice.....

192 5 MR. AKPIK: Environmental Justice. Thank you.

193 6 MS. McINTOSH: Environmental Justice is a new
7 executive order that has been issued. It's not necessarily
8 that new, actually.

194 9 MR. YOKE: 1994.

195 10 MS. McINTOSH: Yeah. And it basically -- its
11 intent is to make sure that when there is a proposed action
12 for something, say building an oil refinery or siting a dump
13 somewhere, that that proposed action is not going to happen in
14 an area where there's primarily a minority population versus
15 putting it where there is a non-minority population. So, for
16 example, in a large city. And this was to combat a lot of
17 these companies in the Lower 48 who were putting their
18 factories and putting their, you know, toxic waste dumps and
19 things like that in the poorer part of town because the people
20 couldn't rally and protest it, where as the rich people were
21 like, not in my backyard. So this was an executive order that
22 was put out there to make it more equitable as to where these
23 places could be sited.

196 24 MR. AKPIK: For instance, in our perspective,
25 I would feel that we are trying to protect our culture because

1 we eat whitefish, we eat (Inupiaq word), we eat (Inupiaq
2 word).

3 MS. McINTOSH: Uh-huh (affirmative).

4 MR. AKPIK: We are trying to protect what we
5 eat. And I don't see anything in -- whoever interpreted this
6 Environmental Justice did not include cultural.

7 MS. McINTOSH: This statement that's within
8 the ANILCA 810 was basically a statement that was requested by
9 the solicitor. The full Environmental Justice Analysis is in
10 the main document. This is not the full Environmental Justice
11 Analysis.

12 MR. AKPIK: Thank you very much. Because this
13 is what I'd like to recommend: for Mr. Ellsworth to be
14 putting out that EIS with his company, that somewhere along
15 the line we should define our culture, that this is what we're
16 striving (sic) on because we're Inupiat. And I'm going to
17 include that in my testimony. Thank you, Stacy.

18 MS. McINTOSH: Are we ready to open up the
19 hearing for testimony?

20 UNIDENTIFIED SPEAKERS: (Simultaneously) Ii.

21 MS. McINTOSH: Ii.

22 MR. ELLSWORTH: Thanks everybody. For the
23 record, it is now 8:30 and I will call to order this meeting.
24 My name is Steve Ellsworth, I'll be conducting this meeting
25 tonight.

205

1 This is a formal hearing for the express purpose of
2 providing folks in this community with the opportunity to
3 provide oral comments on the Bureau of Land Management's
4 ANILCA 810 Analysis for the Amended Integrated Activity Plan
5 and Environmental Impact Statement of the Northeast National
6 Petroleum Reserve. And this will include any mitigation
7 measures that you think should be incorporated into the Record
8 of Decision and that could be applied in order to reduce
9 impacts to subsistence use.

206

10 Your comments tonight will be recorded and transcribed
11 verbatim by a court reporter who tonight is Kelley Hartlieb.
12 All of these comments will be compiled and analyzed and
13 considered by the Bureau in preparing the Final Environmental
14 Impact Statement, very similar to the statements we took on
15 the EIS, Draft EIS at Large, back here in August. This
16 hearing tonight is one of a series of hearings that we're
17 going to be holding also in Barrow and Anaktuvuk Pass and
18 Nuiqsut.

207

19 So that we accurately record your comments, I would
20 ask you to come up and have a seat here or stand, if you will,
21 so we can get you recorded into the mic. When you come up,
22 please state your name. And if you're representing an
23 organization, please provide that information as well. If you
24 have any written comments with you, please leave them here
25 with myself or with Kelley and so we'll have those for the

1 record.

208

2 What I'll do is start with the list here that Dave
3 asked people to sign if they intend to provide oral comment.
4 There's only two folks that have put their names down here.
5 But when we get done with those on the list, we'll open it up
6 again and provide you with the opportunity again at that time
7 to provide comments.

209

8 So at this time I'll ask the first speaker, Joseph
9 Akpik, to come up and state your name.

210

10 STATEMENT BY JOSEPH AKPIK

11 Thank you very much, Mr. Steve Ellsworth. My name is
12 Joseph Akpik, I'm Inupiat. I reside here permanently on the
13 North Slope and I'm also a representative at large in the
14 Inupiat Committee of the Arctic Slope which represents all
15 eight villages. And I wanted to thank your staff, Stacy, for
16 coming here and giving us an opportunity to state our
17 comments, whatever, in relating to this -- this ANILCA Section
18 810.

211

19 First of all, I wanted to emphasize -- emphasize when
20 I was looking at this Analysis of Subsistence Impact, I wanted
21 to thank you for addressing the Environmental Justice. And I
22 do believe that it's one of the -- one of the things that we
23 are going to be using, is the Environmental Justice.

212

24 Let me get my paperwork here correct here. Excuse me.
25 Subsistence evaluation factors: the ANILCA requires that

1 evaluation include findings on all three specific issues: the
2 effects of use of occupancy or deposition -- disposition on
3 subsistence use and needs, the availability of other lands for
4 the purpose sought to be achieved, and it goes on. But I
5 would like to address the Environmental Justice as defined in
6 Executive Order 128.98. I do believe this is one of the
7 better protections that anybody can have in relating to the
8 environmental.

213

9 On our perspective as Inupiat that lives here in the
10 North Slope, we are looking at the northeast section. Using
11 this Environmental Justice, I would like to include somewhere
12 along the line to have more meaningful rather than just the
13 Environmental Justice here is pretty broad. I know that it --
14 a lot of people can utilize this. But for our side, the
15 cultural aspect is just what we would like to see in this
16 Environmental Justice, to address us. Because we strive on
17 our culture. Because our culture is different from the folks
18 down south. We don't have no convenience like the people
19 have. We are very remote. And so I would like to see this
20 Environmental Justice be defined in a finer -- where after you
21 hear all our Inupiat testi- -- have a testimony and see if we
22 can define this Environmental Justice in a bit more
23 perspective to where we'll be more comfortable with it.
24 Because this is one of the -- I do believe this is one of the
25 most effective mechanisms, that this issue that we can use is

1 Environmental Justice. And I'm glad that you have inserted
2 this in there. And so this is one of my things that I would
3 like to address.

214

4 Another one that I would like to address is the
5 Executive Order number 119.90. I will repeat that executive
6 order. I do believe it was from President Clinton. 119.90
7 directs agencies in matters related to the protection of the
8 wetlands. We all know that NPR-A is all -- practically all
9 wetlands. And I want to emphasize again that we would like to
10 protect all these wetlands because that's where our fish
11 strive and where our fish and our waterfowl are. And so I
12 would like to address this and insert this somewhere along the
13 line in this Analysis of the Subsistence Impact, Executive
14 Order 199.90. It directs any agencies the protection of the
15 wetlands.

215

16 Another executive order that I would like to address
17 is 119.88. I will repeat, Executive Order 119.88. It
18 concerns the flood plains management. Now, this is where I
19 would like to see it somewhere in the EIS, even on the
20 Subsistence Analysis, to insert the flood plains management.
21 No permanent construction is proposed or permitted on
22 projects; now, this is very, very important for us because it
23 covers -- that's where we strive, it's where we go hunt, all
24 these wetlands, these flood plains.

216

25 Take, for instance, that Nanuk (ph) CD-4, project

1 number CD-4, it's all in the same issue, Nanuk Project. Now,
2 that is in the flood plains. What would happen if this
3 wint- -- this spring comes and the flood comes and it will
4 flood that whole Colville River Delta? Now, this is some of
5 the mechani- -- this is some of the things that we can use.
6 By -- Executive Order 119.88 concerns the flood plains
7 management. No permanent construction.

217 8 Now, this is my question: I would like to see -- we
9 have a lot of watersheds. We're talking about the northeast
10 section. This is what I would really like to see in here.
11 And I still have some notes here relating to -- if I could
12 find it -- in relating to -- that we include Alaska. I had
13 some -- oh, here. I got it here. The evaluations and finding
14 requirement required by ANILCA 810 are set out on each of the
15 three alternatives considered in the amended; this is what
16 we're talking about. A finding that the proposed action may
17 significantly restrict subsistence uses imposes additional
18 requirements -- boy, that's a pretty broad language too --
19 including provisions for notices to the state of Alaska --
20 provisions noticed for state of Alaska.

218 21 I would like to address Title VI, Alaska
22 Administrative Code Section 80, Subsection 120. It addresses
23 the subsistence use of the coastal land resources. If we can
24 insert that, too, Alaska Administrative Code, because we are
25 dealing with the state of Alaska. Because I would like the

1 state of Alaska to consider this subsistence use because this
2 is what we strive on.

219

3 Another one too that -- another one too on the same
4 Administrative Code Title 80.120, it addresses the state-wide
5 historic and prehistoric and archeological resources. Now,
6 we're talking about the Northeast, and there has been a lot of
7 people that has lived way back before the BIA came. And we
8 have strived on this wildlife and fish and whatever we have
9 for all -- since time in memorial.

220

10 So these are some of the factors that I would like to
11 see addressed: Administrative Code Chapter 80 point --
12 Subsection 120. So this would relate to subsistence use and
13 the coastal resources, state-wide historic and prehistoric and
14 archeological resources. We have to protect them somewhere
15 along the line.

221

16 Okay, another one too that I would like to see is I
17 have a question on this one here: to facilitate compliance
18 with Section 810, the Bureau of Land Management develop a
19 guidance document referred to as Instruction Memorandum Alaska
20 86-350 and it's entitled Policies for 810. Does anybody have
21 that policy there with them? Yes, thank you very much, Stacy.
22 This is what -- one of my questions, that I would like to
23 acquire that policy.

222

24 MS. McINTOSH: Okay.

223

25 And I'm glad that you did. And for now I wanted to

1 thank you again and I would like to address some of those
2 rules and regulations which -- that we would like to see that
3 will go hand-in-hand with our Inupiat Nation here. Thank you
4 very much.

5 MR. ELLSWORTH: Thank you, Joseph. Next on
6 the list, Arnold Brower, Jr.

7 STATEMENT BY ARNOLD BROWER, JR.

8 You already stated my name but my name is Arnold
9 Brower, Jr. And I want to thank BLM for coming to Atqasuk to
10 listen to and advise the community here.

11 (Speaks in Inupiaq)

12 First of all, in your EIS -- and my comments here will
13 be brief -- is that in your proposed actions I would like to
14 see a -- since we're talking about ANILCA's 810 subsistence
15 issue, is that perhaps that the Bureau of Land Management can
16 work together with the Inupiat Community of Arctic Slope to
17 develop a conflict avoidance agreement. In this conflict
18 avoidance agreement, we will institute a monitoring person, a
19 Native monitoring person who will be working with any
20 contractor, whether it be seismic or drilling, to ensure that
21 the environmental portions are reported to the Inupiat
22 Community of Arctic Slope and then a similar report be made to
23 the community of Atqasuk. This will be a very healthy
24 position for Bureau of Land Management, to enter into a
25 conflict avoidance agreement with the user agents of the

224

225

226
Monitoring

1 Inupiat Community of Arctic Slope.

227 2 If there are willing persons in an affected community,
3 that should be a -- we should -- we would work with Atqasuk,
4 Nuiqsut, Barrow or Anaktuvuk Pass on such a conflict avoidance
5 agreement. These people would be -- probably have alternating
6 jobs to work on. Whether it be Western Chico (ph), or if
7 there's another contractor, each incident, each event that is
8 carried out or contracted or having an exploration program,
9 however many they are, if they're separate from entity to
10 entity, they should have a monitoring person, a subsistence
11 person on each contract and each exploration program.

228 12 I believe this will alleviate a lot of social issues
13 and subsistence issues as they will be needing to be reporting
14 how it affects the harvesting, migration of our renewable
15 resources, displacement and that type of issues, and that we
16 need a report of that. And we have never seen anybody else
17 make a report of these incidents to ICAS other than people
18 that were employed by industry, people who have bought leases
19 from -- when they are retained as monitoring agents in these
20 programs.

229 21 This will have tremendous information for us to
22 continue or discontinue our support of oil and gas programs by
23 BLM. As you know, we are not -- we have no entity. No
24 federal entity has taken the Inupiat word that this will have
25 adverse effect until this government has done extensive

1 scientific, multi-million dollar, sometimes, research on some
2 of the concerns that we have done. And these are real issues
3 and I would like to see BLM pursue that.

4 On top of that concern, for Bureau of Land Management
5 to supplement the Inupiat Community of Arctic Slope Public Law
6 93.6.38 contract to -- for ICAS to adjudicate and hire and
7 create an environmental protection agent office for ICAS,
8 which will do the work and reports and other things as
9 necessary when there has been oil and gas spills. And this
10 entity would dispatch the clean-up crew.

11 The Arctic Slope has already formalized an oil spill
12 contingency crew that can be at the call of our office. And
13 these names that have been qualified already would be under
14 the office of the environmental protection office in ICAS.
15 This has to be funded by -- must be funded by Bureau of Land
16 Management because this is your activity. This is not our
17 funded activity. This has to be funded by BLM, by the federal
18 government to ensure that environmental qualities,
19 environmental measures have been put in place that will be
20 monitored by our agents, by our staff, by our government in
21 conjunction with the industry and the seismic operators. So
22 we would be looking forward to working with BLM on this issue
23 to draft a -- develop a program to protect the environment.

24 This environmental work would be related to renewable
25 and non-renewable resources, ICAS lands which includes NPR-A.

230
Spill
Prevention

231

232

1 And because there are -- there is going to be much traffic
2 that has to deal with heavy equipment, roller- (indiscernible)
3 and things. And these axles and equipment have done -- have
4 spilled and have droppings of oil into the lakes when they are
5 commuting or transporting equipment to and from drill sites or
6 seismic operations. These have to be monitored.

233

7 And we want insurance that -- assurance that if there
8 are such incidents, that they be cleaned up. And we will have
9 assurance by our monitoring personnel, too, that these have
10 been cleaned up, dealt with and reported to the Alaska Clean
11 Seas (ph) or to the ICAS/EPA office once that is created. And
12 we certainly welcome the opportunity to put this forward to
13 BLM and we look forward to that aspect.

234

14 Insofar as the Preferred Alternatives: Alternative B,
15 and the No Entrance into the Teshekpuk Lake, and monitoring.
16 As long as we have monitoring and an EPA office and ICAS, we
17 will deal with those other conflicts as they arise to mitigate
18 these measures.

235

19 The reason for my saying this is -- in support of all
20 of this is because of the NPR-A law. It's an irreversible
21 position by BLM but to pursue oil and gas for the nation. In
22 view of that, ICAS requests that -- this is an urgent request
23 for supplemental fundings for ICAS be undertaken by BLM to
24 supplement Public Law 93.6.38 contract for -- with the
25 Department of Interior. So we would like to see that

1 adjudicated as quickly as possible so that we would get -- not
2 be working in the blind and not litigating, not having any
3 conflicts arising throughout. Rather than litigate any
4 issues, we want this pot of money for the assurance that this
5 project is going to be dealt with and mitigated with us
6 because we have no funds as it is to continue on that basis.

236

7 ICAS knows that BLM has earmarked funds in agreement
8 with the North Slope Borough to process -- to promote NPR-A
9 issues. Likewise that BLM should consider such a supplemental
10 funding to the tribal government that has regulatory powers
11 for wildlife, renewable -- and these things under Public Law
12 93.6.38.

237

13 So we certainly do not want to be, you know -- I know
14 that BLM does not want to think that this is just a negative
15 thing. But this is -- we are the impacted, protected people
16 under Section 810, not the North Slope Borough. So we are --
17 the Natives, Alaska Natives, Inupiat Natives are protected
18 under Section 810. And for those reasons, we would like to
19 see this funding be solicited or appropriated for ICAS as
20 quickly as possible.

21 (Speaks in Inupiaq)

238

22 Thank you, Stacy.

23 MR. ELLSWORTH: Thank you, Arnold. That's all
24 we have on the list. But would anybody else like to speak?

239

25 MR. REXFORD: Yes, if I may.

239 1 MR. ELLSWORTH: Please come up, state your
2 name.

240 3 STATEMENT BY DELBERT REXFORD

4 For the record, Delbert Rexford, Realty Officer for
5 Inupiat Community of the Arctic Slope.

241 6 I would like to -- first and foremost, I am very
7 displeased with the fact that you have submitted Appendix B,
8 ANILCA Section 810 Analysis of Subsistence Impacts and have
9 not included sharing it with those that are present here this
10 evening.

242 11 As you're aware, under Section 810-A of ANILCA, the
12 requirement is that an evaluation of subsistence uses needs to
13 be completed. And I believe that this is the process that you
14 are charged with this evening because you have submitted this
15 document. Instead, you have generalized Alternatives A, B and
16 C in the proposed lease areas to the community of Atqasuk and
17 its residents. And I want that noted on the record.

243 18 Because the intent of the evaluation of subsistence
19 uses and needs, for the completion of it, it is to make a
20 federal determination to withdraw, reserve, lease or otherwise
21 permit the use, occupancy or disposition of public lands. So
22 the manner in which this meeting is being conducted does not
23 specifically meet 810-A and I object to that because you need
24 to share this whole document with the community. They need to
25 understand the subsistence impacts that you have -- you have

1 identified.

244 2 On page B-3, for the record, the last paragraph: a
3 finding that the proposed action may significantly restrict
4 subsistence uses imposes additional requirements. Earlier
5 today, in Kunaknana vs. Watt, you explained to us that there's
6 a definition. And the issue with Kunaknana was that, wait,
7 time out; if there's going to be significant impact -- and the
8 decision was made that -- from minimal to large in a wide
9 array of impacts. You haven't clearly identified whether
10 there will be significant impact or minimal impact. You keep
11 saying in your document there may be.

245 12 And on page B-4, top of the paragraph, the three
13 bullets, I'm just going to paraphrase: such a significant
14 restriction of subsistence uses is necessary. Meaning the BLM
15 and the federal government is willing to place restrictions on
16 the subsistence users of the proposed lease areas.

246 17 Bullet two: the proposed activity will involve the
18 minimal amount of public lands. And yet in another page, you
19 emphasize that up to 87% -- on B-5, under B.2.1.1: under the
20 No Action Alternative, 13% of the planning area would remain
21 unavailable, 87% available for oil and gas leasing, reasonable
22 steps will be taken to minimize adverse effects. What is
23 reasonable to BLM, what is reasonable to the federal agency is
24 not reasonable to us when it impacts our subsistence and
25 cultural way of life.

247

1 And in the next three bullets, the reduction in the
2 availability of subsistence resources; that is a significant
3 impact to the subsistence users within NPR-A. You're talking
4 about Wainwright, you're talking about Atkasuk, Barrow,
5 Nuiqsut. That is very significant to us.

248

6 And the second bullet: reductions in the availability
7 of resources used for subsistence purposes. Now, does that
8 meet the requirements of the protection of subsistence users
9 and resources in Section 810-A? I think not. I think that
10 there's going to be a significant impact.

249

11 Limitations on access to subsistence resources; in
12 your document, you referred to the village of Nuiqsut
13 residents -- just bear with me for a moment -- and you state
14 that -- on page B-9, fifth paragraph: as stated in the
15 evaluation for the No Action Alternative, residents living on
16 the North Slope, especially those in the village of Nuiqsut,
17 view the 1998 Northeast IAP/EIS ROD as a negotiated compromise
18 between the Inupiat people, the federal government and the oil
19 industry. There has been no negotiations. It is spearheaded
20 by rules and regulations, presidential executive orders to
21 expedite oil and gas reserves in the national best interest of
22 our federal government.

250

23 What I'm very alarmed about is the statement that the
24 Nuiqsut residents prefer not to hunt where there's oil and gas
25 development. It's not a choice. It has been -- the

1 encroachment, the development had just about literally wrapped
2 them around and they're left with no alternative. They can't
3 go into a -- the Prudhoe Bay or Kuparuk area and access their
4 traditional Inu- -- traditional and customary hunting grounds.

251

5 And potentially, the no loss habitat -- the lost
6 habitat issue, time and time again in Alternatives A, B and C,
7 you state that there will be loss of habitat. There will be.
8 Potentially, there will be displacement of endangered species
9 of birds -- let me correct myself on that one -- of wildlife
10 that may be in the vicinity. Yes, you provide a buffer in
11 Alternative B. As Joe stated, Joe Akpik stated, directional
12 drilling, you -- I think he mentioned that limitations are
13 less than six miles.

252

14 And then in B, there is even a further increase of the
15 amount of land that would be made available. In Alternative
16 A, you've got 87%. And on page B-7, the fourth paragraph,
17 first, second, third paragraph, B.2.2, the Preferred
18 Alternative, which I assume is B, makes 95.5% of all lands
19 within the planning area available for oil and gas leasing.
20 And that's an increase. And so in here you don't talk about
21 how many million acres that we're talking about. I mean, how
22 can we differentiate what 95.4% of Alternative B is? It's not
23 clear in our review of these documents.

253

24 On B-8, last paragraph beginning with the third line:
25 with respect to caribou calving and insect relief habitat --

1 that's the wrong one, I'm sorry. On page B-9: furthermore,
2 removal of the No Surface Activity Zone in addition to opening
3 more lands for leasing would allow permanent facilities to be
4 constructed within much of the Teshekpuk Lake caribou calving
5 area. And these are going to have significant impacts.

254 I'm very concerned about the manner in which that you
7 have submitted your subsistence impact report to the people of
8 Atqasuk. You should cover it from page to page so that they
9 understand it before they even begin to give testimony.

255 So I'm -- as an employee of Inupiat Community of the
11 Arctic Slope, I also work on behalf of stake holders, Native
12 allotment owners. You allow the oil and gas industry to
13 access federal lands but you don't allow them to access
14 private lands, whether it's corporation Native lands or even
15 state lands, I mean, according to the statements that you
16 have.

256 In particular, I'd like to also add, on B-13, with
18 B.2.4.1, Evaluation of the Effect of Such Use, Occupancy, or
19 Disposition of Subsistence Uses and Needs: the analysis of
20 the effects of the cumulative case on subsistence presented
21 indicates that cumulative activity on the North Slope has the
22 potential to significantly restrict subsistence use for the
23 communities of Anaktuvuk Pass, Atqasuk and Barrow and
24 especially Nuiqsut. And further: which would effective- --
25 and this is where Nuiqsut -- planned development in the

1 Northeast Petroleum Reserve - Alaska extends from the Colville
2 River Delta north of Nuiqsut to an area southwest of the
3 village which would effectively encircle the community, making
4 it necessary for subsistence hunters traveling in nearly every
5 direction to pass through some kind of development on the way
6 to subsistence harvest areas.

257

7 Because Inupiat hunters are reluctant to use firearms
8 near oil production facilities and pipelines, there would be a
9 perceived barrier to harvest in these areas even if lease
10 holders did not object to harvest access; that's a very
11 misleading statement. Since oil and gas development began in
12 1968, and as they have gone west, even under protest and
13 opposition, time and time and time again since 1968, we've
14 objected to it. And yet the federal rules and regulations,
15 the public landowners, the presidential executive orders, all
16 of those show very little consideration and respect for our
17 cultural way of life and preserving it. Instead, they keep
18 coming, coming, coming, coming.

258

19 In closing, I just want to say that if you are truly
20 going to meet 810-A, other than handing it out, you should
21 thoroughly -- I believe that the federal law requires a
22 thorough sharing of information. And today we just got a
23 little glimpse of A, B and C and the proposed activities but
24 we had very little discussion on subsistence impacts, the
25 document Appendix B that you handed out.

259 1 And I just want to state that I'm very concerned for
2 those Native allotment owners, that I have a responsibility to
3 represent their best interest. And we've got 69 in the
4 Nuiqsut area. That's over -- there's 32 in Atqasuk area,
5 there's 39 in Point Lay area. Wainwright, I haven't counted.
6 I haven't -- they're so close together that I didn't get an
7 accurate count. But we're talking about hundreds of Native
8 allotment owners who depend on subsistence resources,
9 renewable resources.

260 10 And when you talk about cumulative effect, it's just
11 not the northeast portion of NPR-A. When you talk about
12 development and you anticipate 55 years of life for the
13 production facilities, the cumulative effect cannot be
14 measured. That's the statement that you have in your
15 documents. And I'm just concerned that Atqasuk is going to
16 become another Nuiqsut as they find oil and gas out here.

261 17 And it's -- and you start having roads. You express
18 concerns in here about once roads are built to access and --
19 access the facilities and infrastructures, that sport hunters
20 may also tap into the subsistence resources that we depend on.

262 21 I think I'm getting a little long-winded but I just
22 want to express those on behalf of those people that I'm
23 charged with working on behalf of, in their best interest.
24 And there's a lot of things that could be said.

263 25 I think you really need to take a closer look at 810-A

1 and thoroughly share this in Inupiaq with the people of
2 Atqasuk, with the people of Barrow, with the people of
3 Nuiqsut, those that are going to be impacted. And I thank you
4 for the opportunity to speak at your -- at this meeting. I
5 mean, this is very near and dear to us as individuals and as
6 communities, as Inupiat people as a whole. Thank you.

264

7 MR. ELLSWORTH: Thank you, Delbert. We still
8 have some time if anyone else would like to speak.

265

9 UNIDENTIFIED SPEAKER: (Speaks in Inupiaq)

266

10 MR. ELLSWORTH: Please come up here, state
11 your name.

267

12 STATEMENT BY ETHEL BURKE

13 My name is Ethel Burke, I work for Native Village of
14 Atqasuk, ICAS. And I would like to thank Delbert and Arnold,
15 Brower, Jr. One day when I was given -- or I read through
16 this or I tried to read through this, I -- this is very like a
17 foreign paper to me. And I would like to thank Delbert
18 Rexford.

268

19 And when Arnold Brower was talking about -- I made
20 some notes. On Native -- having a Native monitoring person, I
21 agree with him, in every village that will be impacted.

269

22 Because I don't know, but some elders, they usually
23 call me. And James Aiken knows about this too. There was an
24 elder that was here this evening that had called me and told
25 me that -- because he's always out; he's in his 80's and he's

1 out in the tundra, you know, always hunting. He called me not
2 too long ago and told me about this caribou. It's not too far
3 from here. (Speaks in Inupiaq) Sorry if I'm speaking -- but
4 anyway, when he reached the two caribou, the way he told me in
5 Inupiaq was they would -- the skins were -- I mean, the bones
6 were sticking out from -- that one was a young caribou. And
7 the other, I don't -- I forgot what he said. But there are
8 elders that come to the community members and talk about our
9 wildlife here in Atqasuk.

270

10 And there are some other Atqasuk residents that know
11 about the migration of the caribou and our animals here. But
12 I was hoping that this elder would be here to talk about this.
13 I told him he would have somebody to translate for him.

271

14 And I'd like to thank Arnold Brower, Jr. and BLM for
15 this meeting and, once again, for these comments. And this is
16 -- this -- like Delbert said, I'm so glad -- that's what made
17 me want to come up was Arnold and Delbert. Because this is --
18 even when you're educated, even if you're educated or not,
19 this is just foreign to me. So I agree with Delbert on
20 explaining. Because you come to meetings and you don't really
21 know what you're talking about and you go out and, you know --
22 I don't know. This is -- I'd like to -- I had to say
23 something. And especially when a speaker speaks in Inupiaq,
24 that's when I think I feel stronger inside of me, when I hear
25 it in Inupiaq.

272 1 So it's good to have translation and it would be good
2 to get more community involvement, not just from City or
3 people, you know, from offices. And if we can just invite our
4 community members to these important meetings. So if you're
5 -- and if you want to hear like (speaks in Inupiaq). Or maybe
6 he does to other people. But we do need somebody here, like
7 Arnold Brower said. A Native monitoring person is what he
8 said.

273 9 And I don't know if I can translate what I said in
10 Inupiaq. I'm just going to leave it at that. Quyanaq.

274 11 MR. ELLSWORTH: Thank you.

275 12 MR. ARNOLD BROWER, JR.: Ethel's concern is an
13 elder had raised some concern because he's formed those on the
14 migrating patterns and habits of caribou for all those years.
15 Unfortunately, he stepped out early and I would have liked to
16 heard his testimony. But in agreement with having Inupiaq
17 people who can converse with the community on monitoring, as I
18 indicated, from Atqasuk, Barrow and affected villages through
19 ICAS.

276 20 MR. ELLSWORTH: Would anyone else like to
21 speak?

277 22 STATEMENT OF BERNADINE ITTA

23 For the record, my name is Bernadine Itta. I've said
24 some things at some meetings before, I know.

278 25 But just to think about the habitat of the birds,

1 geese, the white -- or the black-tipped white geese. I notice
2 that, you know, they started drilling at Nuiqsut and then, you
3 know -- up here on the Slope, it's lots of land out there.
4 And there's geese; all kinds of birds have come out here and
5 do their molting. And once they've started at Nuiqsut, the
6 birds that molted there have nowhere to go. So where do they
7 go? They go to another place and make that area more birds,
8 you know, in that area. And they molt and they end up
9 finishing up the food there. And I had heard that there was
10 so many white-tipped geese in this area, it turned that whole
11 area into like mud.

279 In your guys' statements, I don't see anything that
12 would replenish the growing of food for the birds. You know,
13 that's one thing that I'd like for you guys to cover, is when
14 you do go into an area and there's some geese that are in that
15 area -- but now that there's activities going on, the birds
16 that are there cannot go there. They go to another place and
17 they end up finishing up the food that they have and turn that
18 whole area to like mud. And, you know, that's -- if they keep
19 doing that, you know, there's going to be no food for the
20 geese that we hunt. Where are they going to go? What are
21 they going to eat?
22

280 Anyway, it's like just my concern because there's a
23 lot of people that do their geese hunting. And that's part of
24 the whaling festivities that they have. Like the (Inupiaq
25

1 word), that's part of their food that they provide for the
2 (Inupiaq word). And I'm afraid that, you know, if they keep
3 doing this and then the birds, the geese and whatever have no
4 more food. Where are they going to go? And that's going to
5 effect all of the Slope. Because up here too there's a lot of
6 geese that come up here and do their molting. Not just at
7 Teshekpuk, even up here close to Atqasuk there's -- I've seen
8 a lot of geese just coming and landing. And that's where they
9 eat. They even come out here. You know, it's -- I want some
10 protection or some kind of a -- if they could grow back the
11 grass or whatever they eat, I'd like for that to happen
12 because the geese won't -- you know, they might not come back.
13 And that's part of our subsistence life besides the fish and
14 the caribou.

281

15 I know that we don't just hunt in one area for all of
16 the food sources. There's -- we go over here for the caribou,
17 we go over here for the fish. If there's geese hunting over
18 here, we go over there. And then as it melts down, we come
19 closer and go over this direction. It's going to be hard for
20 you guys to designate an area for Atqasuk because our hunting
21 ground is all over, it's not just in one area. And there's a
22 lot of hunters out there that I know of that go here and there
23 for this certain type of animal and, you know, nothing's being
24 said.

282

25 And I'm here to say that, you know, we go out and do

1 our hunting. It's not in one area that we get all of the
2 animals, it's in certain places. And my concern is if we
3 don't say anything, those areas will be affected. And if they
4 are, that animal that we go and try to get is not there.
5 Where are they going to go? And they're going to overgraze
6 the land. And I just kind of don't want to see that to
7 happen.

283

8 But I just had to say something because, you know,
9 I've heard, I've seen. And I try to teach my boys how to --
10 you know, where to hunt and they know. And that's my concern,
11 is our land that they use affects the animals that they
12 intrude on.

284

13 So and I'd like to thank you guys for coming out and
14 listening to me, thank Arnold and Delbert and Joe for all the
15 comments that they have because those are important to us. If
16 we don't have this subsistence, you know, what are we to rely
17 on, especially when there's no jobs in town?

285

18 My son can't even find a job and we have to rely on
19 the subsistence foods to last throughout the year, especially
20 when there's one person in the household that is working to
21 try to get the expensive gas. Four dollars and almost \$5.00 a
22 gallon; you know, that's pretty spendy to go out and get
23 caribou or fish. It puts a dent in your wallet. And that's
24 my concern, is, you know, if they are affected and if I have
25 to go further, that's going to be a bigger dent in my wallet

1 because we have to travel further out to go get the caribou.

2 That's my concern that I have. Thank you for listening.

3 MR. ELLSWORTH: Anyone else?

4 MR. REXFORD: Can I just offer one -- can you
5 explain -- I'm sorry, Delbert Rexford, Realty Officer for
6 Inupiat Community of the Arctic Slope.

7 On page B-16, the final language in your document:
8 the determination that the requirements of ANILCA Subsection
9 810 (a)(3)(A), (B), and (C) have been met will be analyzed in
10 the Final ANILCA 810 Evaluation, using input from the
11 communities in which subsistence hearings will be held. Can
12 you explain what that means to me?

13 MR. ELLSWORTH: Well, how about we -- does
14 anybody else want to provide comment? Because if not, then we
15 can close the comment and we can proceed with the.....

16 MR. REXFORD: Okay, yeah.

17 MR. ELLSWORTH: -- you know, doing some
18 more question and answers. Arnold, was there another comment
19 that you wanted to make, or anybody?

20 MR. ARNOLD BROWER, JR.: Yeah, I have one last
21 comment I want to make.

22 MR. ELLSWORTH: Wait, did you?

23 STATEMENT BY DELBERT REXFORD ON BEHALF OF WEBER (ph) NUNGASAK

24 MR. REXFORD: Yes. On behalf of Weber
25 Nungasak, he just -- and I hope we didn't interrupt the

1 hearings that you're having.

295

2 Weber Nungasak emphasized that he agrees with what
3 Arnold had expressed, in terms of monitoring and oversight.
4 However, Weber would like to make sure that there's the
5 assurance that the reports are submitted to ICAS and the
6 appropriate agencies in case of potential impact that is
7 adversely affecting our subsistence way of life. And he
8 supports what Arnold said. But he wants to have that on the
9 record.

296

10 And I'll wait until -- yeah.

297

11 STATEMENT BY ARNOLD BROWER, JR. (cont.)

12 In the previous hearings from Atqasuk, in listening to
13 their concerns before, I think Atqasuk may have wanted
14 Alternative B. This is right outside Atqasuk so you can find
15 natural gas for this village.

298

Economy

16 I just wanted to mention that because this community
17 is hard-pressed for heating oil. The economy is not at its --
18 even at its average. So this is something this community has
19 desired in the past. And if there are natural gas to be found
20 in the vicinity of these Preferred Alternatives, because this
21 is a general location, any way that -- before it goes down to
22 the Lower 48, some of it has to come to the Arctic Slope
23 homes. So we know that the pipeline is going down from
24 Prudhoe Bay to the Lower 48 and it shouldn't -- we share
25 that -- we envy that proposal, to make that gas available for

1 the nation. And we want BLM to know, we're part of that
2 nation.

299 3 MR. ELLSWORTH: Anybody else want to speak
4 tonight before we close this part and we can get back to
5 Delbert's questions?

300 6 STATEMENT BY GAIL WONG

7 Hello. For the record, my name is Gail Wong.

301 8 Now, Delbert -- I agree with Arnold Brower, Jr. and
9 also Delbert Rexford on -- for the things that they said
10 tonight. But Delbert had mentioned that Atqasuk may become
11 another Nuiqsut. I did go to one of the hearings that was
12 held in Nuiqsut and I did see the impact that it had within
13 the subsistence. And I really wouldn't want to see Atqasuk
14 become another -- another subsistence (sic).

302 15 There was what Bernadine had said about the gas prices
16 of what we, within the villages, pay for. And also, not only
17 that but the meats that pro- -- you know, the food that comes
18 in. And the impact, that if they do come out, that -- where
19 will we get our food from?

303 20 And within Nuiqsut, a resident had told me that they
21 had to go out 90 miles to go get caribou, and that's a long
22 distance. And you're talking, you know, a lot of miles and
23 stuff. But also, my half-sister took us out on the Colville
24 River, which was -- we went about 11 miles. And when you're
25 on the river, by the boat you see a lot of caribou wildlife

1 and everything. And I was really amazed and shocked that we
2 did not see a single caribou in that area.

304 3 And within the village itself, there's that one --
4 there's that one pump station out there. And if you're in
5 Nuiqsut, you can really hear it. And also what one of the
6 residents said is that the wildlife, the impact of the noise
7 alone affects the wildlife. So I just needed -- wanted to say
8 that. Thank you.

305 9 MR. ELLSWORTH: Thank you. Anybody else? All
10 right, it's 9:30 and we will.....

306 11 UNIDENTIFIED SPEAKER: One more.

307 12 MR. ELLSWORTH: Pardon?

308 13 UNIDENTIFIED SPEAKER: One more.

14 STATEMENT BY HARRY BROWER

309 15 I guess I could come and sit down and say something.
16 Good evening. My name is Harry Brower, I'm a resident of
17 Barrow. I'm here just to attend the meeting and observe what
18 was going to be said tonight.

310 19 But in the -- in regards to this subsistence hearing,
20 I mean the ANILCA 810 Analysis of Subsistence Impacts, you
21 know, we've -- the North Slope -- I work for the Department of
22 Wildlife Management and I've helped provide comments from our
23 Department of Wildlife Management with the North Slope Borough
24 in regards to the Preferred Alt- -- or the action that was
25 taken on this amended plan. And we've -- you know, with the

1 Borough, we've submitted comments that were affecting a lot of
2 issues and it -- I think it -- maybe down to like 39 pages of
3 comments.

311

4 And in some of those comments, we're trying to ex- --
5 get a clearer understanding why there were so many exceptions
6 made in the Required Operating Procedures for the interested
7 to follow through. And there's a dilemma in there and there's
8 an issue that needs to be addressed. And there's going to be
9 an exception clause on several of those Required Operating
10 Procedures. So in some of the documents that I was reading, I
11 think the removal of some of those exception clauses would be
12 something that we would be looking forward to seeing in the
13 Final Record of Decision.

312

14 And in terms of the other environmental impact
15 statement that was prepared, we -- there was the No Action
16 Alternative was the preferred act- -- you know, the
17 alternative that was put together over many meetings. It
18 was -- it just didn't happen overnight. And it's kind of
19 misleading to state, label it as a No Action Alternative. It
20 took a lot of action to get to where that -- where it
21 identified and did not want the oil industry to take pl- --
22 activity to take place in those areas. So it's kind
23 misleading when the BLM labeled it as a No Action Alternative.
24 It took a lot of action by the community members from the
25 different villages to make up that plan.

313

1 And then the 79 stipulations that are in there, I
2 think those are heartfelt stipulations that were placed in
3 there to protect the subsistence resources and the users of
4 the area. So, you know, I think those stipulations should be
5 really considered and not just put aside. You need to sit
6 down with the communities to clearly look at and differentiate
7 the Required Operating Procedures and the stipulations that we
8 are going to be faced with. Those are very important issues,
9 that we need to clearly understand how that's going to be
10 taken care of as the industry moves into the Northeast NPR-A.

314

11 There are a lot of other issues I could probably speak
12 about but that's something I'd like to just share with you and
13 just put on record, that the exception clauses need to be
14 removed from the Required Operating Procedures, which makes it
15 too lenient for the industry to get into areas where we're not
16 willing to give up so easily. And thank you.

315

17 MR. ELLSWORTH: Thank you, Harry.

316

18 STATEMENT BY CANDACE ITTA

19 Good evening, my name is Candace Itta. And I'd like
20 to thank you for coming to our community. And this is like a
21 learning experience, and for the purpose of our elders, I'm
22 going to speak our language and ask Arnold if he can translate
23 it after.

24 (Speaks in Inupiaq)

317

25 MR. ELLSWORTH: Thank you.

1 MR. ARNOLD BROWER, JR.: Okay, translating

2 Candace's comments; she spoke in our language.

3 First of all, like to Delbert, this document you

4 presented, this should have been transcribed or made

5 understandable for the community in its entirety so they

6 have -- can testify with clarity. People don't recognize or

7 understand what's happening here except from what of us that

8 are testifying or speaking with you folks representing Bureau

9 of Land Management.

10 And as it relates to a subsistence way of life, as you

11 know, Atqasuk is predominantly a subsistence community and

12 caribou and fish are the mainstream of diet and nutritional

13 needs. And these have -- these are of grave concerns for the

14 community and herself because they want to pass this cultural

15 and subsistence way of life to the next generation. Because

16 there is no other foreseeable way of life that will -- that

17 can benefit the next generation and other generations that are

18 going to follow in view of the fact that oil is going to be

19 depleted. It's going to be gone. So that's their -- in view

20 of that, there has to be extensive and solid protection

21 measures for the renewable resources on which the community

22 depends upon.

23 As your -- as this document is written, it's not yet

24 -- has not been digested by this community that's at this

25 meeting right now. For example, she alluded to that one TV

1 commercial, the little old lady that often -- we often or
2 sometimes see: where's the beef? This is potentially a
3 reality when we have the: where's the caribou? Because we
4 see the impacts in Atqasuk that have driven a lot of the
5 renewable resources away, from the testimonies we've seen
6 previously.

322

7 So -- and she appreciates that you have come and
8 thanks you for your presence. And these are her comments for
9 you to take into consideration.

323

10 MR. ELLSWORTH: Thank you for the translation,
11 Arnold.

12 STATEMENT OF JAMES AIKEN

324

13 I'm going to speak in Eskimo. My name is James Aiken,
14 Sr., Atqasuk. I'm going to speak in Eskimo too.

15 (Speaks in Inupiaq)

325

16 Well, that's all I got.

326

17 MR. ARNOLD BROWER, JR.: This is the testimony
18 of James Aiken, Sr. He's an elder here at Atqasuk. He has
19 been here since he got married to Kate, who is a lifelong
20 resident of Atqasuk.

327

21 And to his memory, he's always had caribou here. And
22 this is his notes, that he's reminding or taking notes at this
23 public hearing about the kind of caribou migration that he has
24 witnessed from his livelihood here in Atqasuk, including in
25 witnessing sites where caribou calve, even near Atqasuk. So

1 he has extensive knowledge of where caribou go and migrate in
2 seasons from around Atqasuk to Barrow to Teshekpuk area. And
3 this is -- he wants to convey this knowledge.

328

4 And he knows what Nuiqsut is going through and having
5 hardship. And he's taken a note prior to oil and gas
6 development and the advent of oil and gas industry and
7 drilling sites in Nuiqsut. The caribou, the same caribou,
8 used to be the same herd from Nuiqsut to Atqasuk and around
9 Barrow. Because of the infrastructure that has been put up in
10 Nuiqsut and Prudhoe Bay, now there are stocks; now they are
11 classified as stocks of caribou for western herd, the
12 porcupine herd, the central herd. As he noted, they are no
13 longer one species but different families because of the
14 barriers that create these familial stocks now.

329

15 And taking a note of the hardship that is being
16 undertaken by some of the herds that are nearer the barriers,
17 especially there at Prudhoe Bay and including fishing. Fish
18 have been really good here right now. And there was a season
19 of Husky Oil exploration that he's witnessed, that he's
20 participated in employment during that time. The fish started
21 to have repercussions or maybe not in healthy stocks.

330

22 When you are a hunter, you take note of each species,
23 each fish that you caught, whether there's a worm, whether
24 there's fat, whether that fish was lean. This is always
25 noticeable when you pull them out because you take each fish

1 by hand out of the net or you pick them, each fish, out of the
2 river with a hook. So he's taken a note of these things.

3 And that during the Husky Oil production there, Upiksu
4 (ph), for example, in that site, that year or the subsequent
5 year, during those times that there was lean fish, sickly.
6 And sometimes, you know, he's taken a note of these. We know
7 that for a fact that burbot is now -- has some contaminants,
8 maybe because of the issues of the Umiat contaminants that
9 were set into the river, on the bank of the river, even
10 against the advice of the Inupiat people who were employed at
11 Umiat and were told to put this contaminant trash into the
12 river bank. And this has a ripple effect, that it bleeds
13 through the sand into the river, whether it's batteries or
14 whatever contaminants that may have been put there.

15 So these contaminants have to be reckoned with today.
16 There are -- you know, the warning by the Fish and Game
17 biologist is now to have a limitation per year of burbot, is
18 five. These are significant restrictions for our diet and
19 nutritional needs that we so depend upon. And this is very
20 significant impact, that we must curtail our food which we
21 normally take. There are not very many species that are in
22 the Arctic Slope to choose from but there are only those that
23 we take that are edible. And this is his concern in this
24 area, from Atqasuk.

25 In the witnessing of the first drill sites that were

331

332

333
Seismic

333 (Cont'd)
Seismic

1 done near here and the one near Upiksu, when they did the five
2 seismic studies they used dynamite. And these type of
3 incidents have killed stocks of fish. And when that happens,
4 it causes chemical reactions of dead fish in that particular
5 lake. And those fish get unhealthy, sometimes loss of fish in
6 that particular lake due to the stench of the water in that
7 lake from that many dead fish. They don't go back there for
8 more than a season.

334

9 So that's our concerns that we're going to be faced
10 with. Certain things are -- if the stipulations, for example,
11 are relaxed, and those are the ones that Harry alluded to --
12 perhaps that that should not be altered.

335

13 So these people in Atqasuk don't have an alternative
14 at all because they can't go whaling. Under the terms and the
15 conditions of a whaling village, this village does not qualify
16 because it's not a coastal village. So they can't go and find
17 alternative dietary and nutritional needs to be met even in
18 that way. So this community is strapped for nutritional and
19 dietary supplements.

336

20 The store-bought food is cost -- the high cost of
21 store-bought food, I think it might behoove you to take a look
22 at that in the morning, to do that. If there is no economic
23 base for this community, how in the world is that to be
24 handled since we have the high cost of fuel to contend with
25 for heating?

337 1 And in view of what happened in Nuiqsut, he's
2 reminding the community that we must really defend our
3 renewable resources. Drilling with those good stipulations,
4 stipulations that will protect resources, renewable resources.
5 And to alleviate these gas -- I mean, the high cost of fuel.

338 6 Jim has been involved with drilling by Husky Oil.
7 There was a drill here -- drill site near here. About 2,900
8 feet down there is gas. So there is some allowances on --
9 maybe that's one thing that we can -- because the impending
10 drilling and exploration program is coming this way. This is
11 something that you need to contend and put into part of your
12 mitigation measures, to address the high cost of fuel for
13 heating here in Atqasuk. Because there's no other alternative
14 here besides coal. And they don't have the means to extract
15 the coal right now because of the provisions of law for mining
16 and stuff. But for mining, BLM, again, there's energy needs.

339 17 And dependence on the caribou and fish are of high
18 priority, that they be addressed here for the community
19 because this is their nutritional, dietary supplement for the
20 community. There's no musk ox, there's no cattle, there's no
21 other animal, there's no other game here.

340 22 And he's been an elder here and -- one of the elders
23 -- and he's spoken here. And maybe he's not spoken well
24 enough because I guess he recently had a deaf experience and
25 he's not able to speak as adequately as he ought to nowadays.

1 But he just wants to speak reverently and from his heart that
2 these are real concerns. But we're grateful to God that he's
3 still alive.

341

4 MR. ELLSWORTH: Well, if there's nobody else,
5 I'd like to get back to -- sorry, I interrupted you there
6 before, Delbert. And if we can get -- maybe Stacy remembers
7 the question, can respond to it.

342

8 MS. McINTOSH: It's concerning the final three
9 determinations. The overview process that Section 810 of
10 ANILCA -- Title VIII of ANILCA is basically kind of a three-
11 step process. The first step is the evaluation and finding of
12 the proposed action. And the reason why the first alternative
13 was called the No Action Alternative is because we wouldn't --
14 the BLM would not be doing any proposed action under that
15 alternative.

343

16 Alternative B: the action is to open all lands for
17 oil and gas leasing except for that one area. And Alternative
18 C: the proposed action is to open the entire area for oil and
19 gas leasing. So we -- the ANILCA 810 evaluates those actions.
20 And the first thing to do is evaluate and come up with a
21 finding. That's the first step.

344

22 If the finding is positive that, indeed, one of these
23 actions may cause a significant restriction to subsistence,
24 then you have to do the second step which is a hearing. And
25 we're doing the second step right now because there was a

1 positive finding for the cumulative case of the plan. So
2 there was the -- there's No Action, there's Action A,
3 there's -- or Action B, I should call it, there's Action C.
4 And then there's also the cumulative case because NEPA
5 requires you to have a cumulative case.

345

6 Now, the third process that would happen after the
7 hearings, after taking everyone's comments in and things like
8 that -- because at every single one of these stages, the
9 authorized officer can decide not to go ahead with any action
10 at all. So it's almost like a response. First we have the
11 evaluation and the finding; what does the authorized officer
12 want to do? Does he want to continue going forward with this
13 action? If the answer is yes, then you hold hearings. You
14 hold the hearings, you get input from the communities, you ask
15 yet again: does the authorized officer want to go forward
16 with this action? If the answer is yes, then you have to make
17 a final three determinations. And that's what that last
18 paragraph is referring to. The three determinations that
19 have to be made if the authorized officer wants to continue to
20 go forward with this action.

346

21 And in here there is a description of what the final
22 determinations are. These are these three final
23 determinations that will have to be made based on input from
24 communities, but that restriction of subsistence use is
25 necessary and consistent with sound management principles for

1 the utilization of public lands.

347

2 So in this case, the proposed action is opening up,
3 you know, most -- more of the northeast area to oil and gas
4 leasing, basically. And there was a positive finding for it.
5 That positive finding: is it necessary, is it necessary to
6 fulfill the intent of the proposed action?

348

7 The second one is that the proposed activity will
8 involve the minimal amount of land. These are three
9 determinations. There will have to be a paragraph on each one
10 that explains how these three determinations are being met
11 within the Final ANILCA document. The proposed activity will
12 involve the minimal amount of public lands necessary to
13 accomplish such use. Yet again, that use that we're talking
14 about right here is opening additional lands to oil and gas
15 leasing. That is the use that we're talking about.

349

16 And then the third one is: reasonable steps will be
17 taken to minimize the adverse impacts upon subsistence use.
18 And these are the mitigation measures that we're kind of
19 asking the public for with regard to this. So does that
20 answer your question?

350

21 MR. REXFORD: Yes. Yes.

351

22 MS. McINTOSH: Right. It's -- and 810, really
23 it's just kind of a process that all -- if any agency that is
24 responsible for public lands wants to do anything on them, any
25 action, this is the process that they have to follow to be in

1 compliance with this law, basically. So these final three
2 determinations must be made. And then, once they're made, the
3 authorized officer can proceed with the action.

352

4 However, it was the intent of Congress, like we said
5 at the very beginning, that, to the maximum extent possible,
6 mitigations -- you know, impacts to subsistence are going to
7 be minimized, minimized by mitigations. So although, like
8 Arnold said, this activity can still take place, the
9 authorized officer can still ultimately, at the end of it say
10 let's go forward with it, there are all these places during
11 the process where we can get from the communities, from
12 scientists, from other people, potential mitigation measures
13 that we can put along with the action to help minimize impacts
14 to subsistence.

353

15 Yes, Arnold?

354

16 STATEMENT BY ARNOLD BROWER, JR. (amended)

17 MR. ARNOLD BROWER, JR.: I'm not sure if you
18 closed -- just closed it or just have time to maybe amend a --
19 one of my comments is: as to looking at the final
20 determination process, in item 3, your bullet point number 3
21 under Final Determinations: reasonable steps that will be
22 taken to minimize adverse impacts is going to be taken by BLM.
23 But that has to be in conjunction with the user agents, namely
24 the Inupiat Community of Arctic Slope and residents, whether
25 that minimized adverse impact can be mitigated upon. And that

1 has to be -- there have -- with the conflict avoidance
2 agreement put in there so that we both agree that this is a
3 reasonable step that will be take- -- acceptable to minimize
4 adverse impact.

355

5 MS. McINTOSH: Uh-huh (affirmative). And I
6 should also say that I know when you were talking earlier and
7 you said reasonable steps, well, there's lots of definitions
8 of reasonable.

356

9 MR. ARNOLD BROWER, JR.: Yeah.

357

10 MS. McINTOSH: Whose definition are you using?

358

11 MR. ARNOLD BROWER, JR.: Mine. (Laughter)

359

12 MS. McINTOSH: It's actually the Secretary of
13 the Interior's decision, that reasonable steps have been
14 taken. She's going to end up signing the document in the end.
15 So.....

360

16 MR. REXFORD: Going back to the document, it's
17 very clear there's no compatibility with the presidential
18 order on the National Energy Policy, the National Energy
19 Policy development group consisting of the Vice President and
20 cabinet members.

361

21 MS. McINTOSH: Right.

362

22 MR. REXFORD: Now, in all due respect to the
23 President that implemented and his cabinet members, we were
24 not involved in that process.

363

25 MS. McINTOSH: No.

364

1 MR. REXFORD: Basically, it is the President's
2 National Energy Policy. And further in the document, the
3 document states that there's incompatibility of various
4 federal laws that has brought us to this step where we are.
5 And that those laws must be met prior to making all -- prior
6 to making lands available for development.

365

7 We know it's inevitable; we're not naive. We've been
8 screaming since 1968. We know it will occur. But I thought
9 we lived in a democratic society where we can have due process
10 of law. And these laws don't allow due process of law. They
11 allow scoping, they allow hearings and thank-you-for-your
12 comments-we'll-put-it-in. And then when we read the Final
13 Draft, a lot of our comments are deleted.

366

14 And then agencies prefer to make misleading
15 statements. For example, the village of Nuiqsut, as I pointed
16 out in the document; I've been in Nuiqsut when they conducted
17 NPR-A meetings and they said no, it was not our choice, it was
18 just an encroachment of development. You need to correct your
19 documents, that's all I'm saying, is that where Nuiqsut is
20 concerned, you need to consult with them and get the proper
21 language.

367

22 Last month the North Slope Borough Planning Commission
23 had a meeting and a permit, a local permit through the North
24 Slope Borough was considered. And at that particular time,
25 there was strong opposition because Conoco-Phillips was asking

1 to develop. And stipulations were being -- I don't know what
2 the right word is -- reduced or lessened or less strict
3 against the opposition of the impacted community. And I
4 anticipate that.

368

5 And this is -- I agree with Arnold in this area, in
6 that the President's National Energy Policy should include
7 impact funds. Mitigation alone is not going to provide the
8 things that we need, as testaments have submitted, because
9 we're dependant on renewable resources that are available in
10 the area we live in. For our (Inupiaq word), like James Aiken
11 said, it's caribou and fish.

369

12 You go to Nuiqsut, they can have caribou, fish,
13 whales, and marine mammals, et cetera, geese, et cetera. In
14 Barrow, you know, you can go to just about any part of the --
15 you can go to the ocean, you can go on land. You've got to
16 consider the limited resources within the community of Atqasuk
17 as stated by James Aiken, Sr. What may not be significant to
18 you as an agency is very significant to us. It's our identity
19 as Inupiat people, as indigenous people. It weaves (ph) our
20 culture, it weaves our sharing and traditions and customs that
21 make us who we are as Inupiat people, whether they're in
22 Atqasuk, in Barrow, in Nuiqsut or across the entire Slope.
23 That's what identifies us. And we see this encroachment on
24 the resources that give us our cultural identity, and that's
25 what we're concerned about.

370 1 And I'll prepare a written statement before tomorrow
2 night's meeting in Barrow on the issues and concerns that I
3 have on behalf of Inupiat Community of the Arctic Slope that I
4 work for and the Native allotment owners who will definitely
5 be impacted too. Because I am charged with working with them
6 in their best interest.

371 7 But I do appreciate that you have pointed those out to
8 us.

372 9 MS. McINTOSH: And I was going to ask you,
10 actually, if you're going -- so you're going back to Barrow
11 tomorrow morning?

373 12 MR. REXFORD: Weather pending.

374 13 MS. McINTOSH: Yeah, weather pending. I was
14 wondering if maybe it would be possible for you, Delbert, and
15 Arnold and I to sit down and maybe make this presentation
16 better, so it's easier to understand?

375 17 MR. REXFORD: Just two words: no development.
18 Yeah, we can do that.

376 19 MS. McINTOSH: I'm serious about that, like
20 meeting, having a meeting. I don't know what you're doing at
21 work tomorrow or anything like that, but I have all day.

377 22 MR. REXFORD: Yeah, I can make time to meet.

378 23 MS. McINTOSH: Okay.

379 24 MR. ELLSWORTH: Well, I guess, thank you,
25 everybody.

380 1 MS. WONG: I notice you leave out certain
2 villages. How come Wainwright was not included?

381 3 MS. McINTOSH: Well, you know, actually, we
4 were talking to Geoff Carroll today and he was saying that,
5 considering the fact that the positive finding had to do with
6 the Teshekpuk Lake herd and the potential for it to be
7 impacted, that Wainwright should have been included because
8 they rely on it. And that's definitely an oversight. And I
9 think he's going to mention it at the hearing tomorrow.

382 10 But in the original 1998 Plan, those were the
11 communities that were considered as being potentially
12 affected. And I just followed that. I really didn't know
13 that Wainwright relied as heavily on the Teshekpuk herd as
14 they do.

383 15 MR. ARNOLD BROWER, JR.: We mentioned that at
16 your last hearing, about Wainwright again, about it being
17 overlooked.

384 18 MS. McINTOSH: Yeah, that was the one where
19 Bob was running it? Yeah.

385 20 MR. REXFORD: You keep using positive
21 findings. I can't -- I clearly understand negative findings,
22 okay? In everything that you do, there's negative findings
23 that may be adverse. Now, define positive findings in the
24 terminology that you -- the context that you're using.

386 25 MS. McINTOSH: A positive finding is that the

1 proposed action -- so the actual act of opening up more lands
2 for oil and gas leasing would significantly restrict
3 subsistence uses. This is a positive finding. There
4 were.....

387 MR. YOKEL: That's what Delbert's calling a
6 negative finding, I think.

388 MS. McINTOSH: The reason why we're having
8 this hearing is because there was a positive finding for the
9 cumulative case within the Northeast Amendment when the
10 evaluation was done.

389 MR. ELLSWORTH: It's just an unusual way to
12 use the word positive. I mean, the finding was that there
13 would be impact.

390 MS. McINTOSH: That there would be significant
15 impacts to subsistence.

391 MR. ARNOLD BROWER, JR.: Stacy, I'm now
17 baffled that this is a positive finding. We don't know that
18 positive finding and we're not even addressing that particular
19 finding, are we?

392 MS. McINTOSH: Well, when.....

393 MR. ARNOLD BROWER, JR.: It's a secret
22 positive finding?

394 MS. McINTOSH: No, it's not a secret positive
24 finding. I mentioned it during the presentation but it was
25 for the cumulative case that there was a positive finding.

395

1 MR. ARNOLD BROWER, JR.: Cumulative case.

396

2 MS. McINTOSH: That's what takes us into the
3 next step of having hearings. That's why we're having the
4 hearing here. The positive finding is for the cumulative case
5 which takes into consideration everything that's going on
6 including the proposed action, right?

397

7 The three alternatives, the No Action Alternative,
8 Alternative B and Alternative C, for those actions, it was the
9 conclusion of the resource specialists within the document --
10 and that's the science that this is based on -- that there
11 would not be a substantial decrease in the population, there
12 would not be significant displacement of resources. And the
13 Subsistence Section, which is the only one that really talks
14 about access to subsistence resources, because those are the
15 three things we're supposed to look at, said that there would
16 not be a reduction in access to subsistence resources.

398

17 So for those three alternatives, there was a negative
18 finding, which is actually, subsistence would not be
19 significantly affected. And it's based on the conclusions
20 reached by the individual resource specialists on caribou, on
21 fish, on those resources that are subsistence resources as
22 well as on that Subsistence Section by Steven Braund.

399

23 When I was doing the ANILCA 810 Analysis, what I did
24 was I looked at the No Action Alternative and Alternative B
25 and I tried to summarize the differences between those two

1 alternatives. And that was that bulleted list on page B-8
2 that I pointed out. Those are the main differences between
3 the two. And all of those differences, two of them, that No
4 Surface Occupancy Zone going away and the opening of
5 additional lands were the two things that had the potential to
6 affect subsistence. So in that way, it was kind of talked
7 about that those are the potential impacts as identified by
8 people to subsistence by these actions.

400 However, still, the individual biologists and resource
10 specialists who did the internal analysis that this finding is
11 based on still said that there was not going to be a
12 significant reduction in population. There was not going to
13 be so there had to be a negative finding: would not
14 significantly restrict.

401 MR. REXFORD: Right. But just like Bernadine
16 said, we're just going to have to go an additional 90 miles to
17 get caribou.

402 MS. McINTOSH: Well.....

403 MR. REXFORD: So the consideration for human
20 beings is a lot lesser than the wildlife that we depend on.

404 MS. McINTOSH: Yeah, the access question was
22 addressed in Steven Braund's Analysis of Impacts to
23 Subsistence. It's actually within the internal document,
24 Impacts to Subsistence and Impacts to Socio-Cultural. So
25 there's actually impacts to culture as well that's discussed

1 within that document.

405

2 With regard to the ANILCA 810, the subsistence
3 internal part that needs to be analyzed is the access issue,
4 according to our direction from that court case, of things
5 that we look at, or whatever, when trying to assess impacts to
6 subsistence, to define that. And it was still felt by people
7 that -- by the individual resource specialists that the
8 displacement wouldn't necessarily be that significant.

406

9 Now we're hearing differently, of course, from
10 community members, which is good. Those are the types of
11 things that we want to hear. But at the same time, I think
12 that why the resource specialists came up with these
13 conclusions is because it's a very vague decision right now to
14 open up a wide tract of area for oil and gas leasing. We
15 don't know specifically where oil companies are going to want
16 to lease. We don't know where they're going to want to drill.
17 We don't know where they're going to want to build pipelines
18 or things like that. We can guess and we can make assumptions
19 and that's what NEPA tells us to do in looking at these
20 alternatives. But we don't know for sure and I think that's
21 the cloudiness that's kind of encompassing all of these
22 analyses.

407

23 MR. ELLSWORTH: Kelley, you can shut the
24 recorder down. Public testimony is over.

25 (Off record)

1 * * * END OF PROCEEDINGS * * *
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C E R T I F I C A T E

UNITED STATES OF AMERICA)
) s.
STATE OF ALASKA)

I, Kelley Hartlieb, Notary Public in and for the State of Alaska and Reporter with Metro Court Reporting, do hereby certify:

THAT the foregoing pages numbered 03 through 86 contain a full, true and correct transcript of the ANILCA 810 Public Hearing before the Bureau of Land Management, was taken by me and transcribed by me.

THAT the Transcript has been prepared at the request of ENSR International, 1835 South Bragaw Street, Suite 490, Anchorage, Alaska.

DATED at Anchorage, Alaska this 30th day of November, 2004.

SIGNED AND CERTIFIED BY:

Kelley Hartlieb
Notary Public in and for Alaska
My Commission Expires: 04-12-07